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Joan Claybrook, President

Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

Pittsburgh, PA

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My name is Patricia Lovera and I am the Deputy Director of the Energy and Environment Program at Public Citizen. Public Citizen is a national, non-profit consumer advocacy organization based in Washington, DC. The organization was founded in 1971 to represent consumer interests in Congress, the executive branch and the courts, and currently has approximately 150,000 members.

The food team at Public Citizen has focused on many issues over the years, ranging from meat inspection, food irradiation, labeling, aquaculture, intensive livestock operations, and international food trade. In the last year or so, we have started to monitor dairy issues, especially the controversy surrounding the growing use of milk protein concentrate (MPC.)

I am here today to state Public Citizen's opposition to the proposal to change the definition of milk. Our opposition is based on concerns with the specific details of the proposal, as well as the process by which this change is being considered.

Safety Concerns

Public Citizen shares the concerns of many dairy farmers and other food experts about the use of MPC. The lack of approval by the Food and Drug Administration (FDA) as a food ingredient and the failure of companies using MPC to conduct the research necessary to determine if MPC meets Generally Regarded as Safe (GRAS) standards are extremely troubling. While I understand that these are issues which fall under the authority of the FDA, not the USDA, they should not be ignored in the debate over these proposals to expand the definition of milk to include the use of MPC. Public Citizen feels that the use of MPC should not be allowed in processed foods or cheese. To allow the use of MPC in a liquid that is legally allowed to be called "milk" is similarly unacceptable, but is also deceptive to consumers who have a long-held understanding of what milk is which does not include the addition of untested, unregulated substances.

While the questions surrounding the wholesomeness and purity of MPC are a critical factor in our opposition to the proposal to allow the re-definition of milk to include the use of solids such

as MPC, they are not our only concern. The impact that increased imports of MPC are having on domestic dairy producers is also extremely worrisome. The displacement of milk and powdered milk by imported MPC is further exacerbating the economic hurdles faced by domestic dairy farmers. Encouraging the use of MPC in even more products, as this proposed re-definition will do, will only serve to further disadvantage domestic producers.

The marketing order system utilizes Grade "A" milk, a designation which is based on a system of farm inspection. Since the vast majority – if not all – MPC is produced outside of the U.S., how can MPC be considered as a component in a product that is dependent on this USDA class-based pricing system? MPC is generated from places that do not receive the Grade "A" designation, and it should not be allowed into products labeled as "milk."

Process Concerns

The controversy over the use of MPC in food products is not a new one. This has been a subject of debate not only for the dairy industry, but for Congress, the FDA, and consumers. Therefore, it is worrisome that an action as significant as changing the definition of milk could happen through the milk market order system, a process most consumers have never heard of. The FDA and USDA recently announced a joint initiative to modernize the standards of identity for foods, a process which should involve somewhat more transparency and opportunity for input from the public than this hearing process.

Public Citizen opposes any change to the definition of milk that would allow the use of MPC, and we will voice that opposition in any forum where this issue arises. But in the interest of transparency and involving all of the parties impacted by such a change – especially the consumers who drink the product in question – such a fundamental change should be the subject of a much broader, and much more public, debate.

Thank you.